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**PDF PAGE 1, COLUMNS 3 &  
7**

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**PDF PAGE 1, COLUMN 3  
“FRANK JURORS LIKE  
SCARED RABBITS”**

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**JURY  
FRIGHTENED  
INTO ITS  
VERDICT.**

**CHARGES MR.  
ARNOLD**

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“Did the Jury Hear  
Applause  
and Cheering?” Is Big  
Ques-  
tion for Judge Roan to  
Pass  
Upon

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23 COUNTS  
CONSIDERED

AT THE MORNING  
SESSION

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# Three New Affidavits Will Be Introduced by Defense to Show Henslee Was in Albany at Time It Was Claimed

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The twelve jurors who declared Leo M. Frank guilty of the murder of Mary Phagan were compared with "twelve scared rabbits huddled together" by R. R. Arnold, of counsel for the convicted man, Thursday morning during the hearing by Judge L. S. Roan of the defense's motion for a new trial. The attorney asserted stoutly that the grounds of the motion wherein it, is alleged that the jury was frightened into a verdict of guilty by the state of the public temper, are correct and can be borne out.

Those contentions, however, were disputed in passing by Solicitor Dorsey and will be combatted later by affidavits from the jurors themselves. Much is said to depend upon Judge Roan's view of this dispute between the opposing lawyers.

Twenty-three more grounds of the long motion were covered Thursday morning, and the hearing was engaged with the sixty-sixth when adjournment was taken for lunch. Judge Roan declared that he expects to complete the reading of the motion some time Thursday and to be ready Friday morning to proceed with the depositions and arguments. Among the grounds covered Thursday morning were those which allege that the jury was influenced by applause and cheering on this and that specified occasion.

The Thursday session was held in the state library, convening at 9 o'clock and beginning with the forty-third ground of the motion. Judge Roan urged all haste possible commensurate with the importance of the subject, and declared that a night session would be held Thursday if necessary to complete the motion.

During the hearing Thursday morning it became known that the defense has three other affidavits which it will introduce to support its contention that Juror Henslee was prejudiced.

These affidavits, it is said, are to the effect that Henslee was in Albany, Ga., on the day that Mack Farkas swears he was there and showed a biased opinion about the Frank case. Henslee's affidavit, to be introduced by the state, is to the effect that he was not in Albany that day at all. The defense also will introduce evidence of a business paper said to have been signed by Henslee at Albany that day. One of its affidavits is said to be signed by a hotel clerk who looked over the register and found Henslee registered there on that day.

### RULES FOR DEFENSE.

Judge Roan ruled for the defense on the forty-third ground, holding that objection by the defense to the testimony of Ashley Jones had been understood to apply later to the testimony of Irene Jackson.

In the course of the argument on this, Mr. Arnold declared "It's an outrage to grab us up on these little tip ends of things that are not intended to be reported in detail."

Solicitor Dorsey retorted that the responsibility lay with the defense and not with the stenographers. Mr. Rosser, said he, would jump to his feet during the trial and address the court about as follows: "I object to this, your honor. Is your honor going to allow this sort of testimony? Have we forgotten our rules of law?" And with that, said Mr. Dorsey, Mr. Rosser would rest content, omitting altogether to state upon what grounds he based his objection.

The solicitor added that he would like to have the court stenographers sworn about their transcript of the records and settle all dispute on that point.

### **ROSSER SAYS LITTLE.**

Mr. Rosser arrived, at the hearing at 10 o'clock, but took little part in the proceedings. He did register an objection to including excerpts from the record in the motion on one point and another when dispute was made by the state. Those passages could be covered in a few words not quoted, said he. Putting in a lot of stuff like that would only make the motion look ridiculous when it got to the supreme court, said he.

This was the first intimation by the defense that it expects Judge Roan to deny the motion and necessitate it being sent to the supreme court on appeal.

The solicitor objected to that part of the motion wherein it was stated that by insinuation and inuendo he tried to put before the jury an intimation that the B'nai B'rith had raised a fund to defend Frank. He denied that, saying that he had tried to prove by individual witnesses that they as individuals had contributed to a fund. but that he had not connected the B'nai B'rith with it. He admitted that he had

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**JURY FRIGHTENED  
INTO ITS  
VERDICT,  
CHARGES MR.  
ARNOLD**

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**(Continued From Page 1.)**

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charged that a slush fund had been raised.

**ONE PASSED—ONE STRICKEN.**

One ground of the motion was passed without any objection at all. This related to Conductor Mark's testimony about Daisy Hopkins.

Another entire ground was stricken. The defense claimed to have objected at the right time and in the right way to certain testimony by Daisy Hopkins. Mr. Dorsey admitted that but said they withdrew the objection later. The record bore him out, and the defense struck the ground from its motion.

**23 COUNTS COVERED.**

When the hearing adjourned for an hour at 1 o'clock, Thursday afternoon, the sixty-sixth ground of the motion was under discussion. Twenty-three counts had been covered during

the morning, as against thirty covered Wednesday afternoon and thirteen covered Wednesday morning. Judge Roan declared his belief that the entire motion could be gone over before the court ended its labors for the day, Thursday, and that it would be able to proceed with depositions and arguments when it convenes Friday morning.

Among the grounds passed over during the morning were several which allege that the jury's verdict was affected by the cheering and applause and other demonstrations in and out of court. In each the judge inserted words to make the phrases "which the jury heard" read "which perhaps the jury could have heard."

In the midst of a discussion as to where the jury was when certain applause broke out in court, Mr. Arnold, for the defense, exclaimed:

### JURY LIKE SCARED RABBITS.

"They were back there in that little room of theirs, huddled up like twelve scared rabbits."

Later Mr. Arnold repeated his assertion, made Wednesday, that the crowd of spectators, and not the judge nor the jury, was running the court.

It was apparent that much depends on the judge's opinion of the evidence about the jury and as to whether or not it heard the applause or was affected by it. The solicitor's contention is that the defense sets up the allegations and that those allegations then partake of the nature of pleas and that answer and denial of them makes them issues, for the judge to decide.

It is expected that Judge Roan will comment upon these matters one way or the other when he makes his decision.

# Crowd Ran the Court,

# Charges the Defense

"I'm just trying to show, your honor, that the crowd ran that court, and not the judge nor the jury," said Attorney R. R. Arnold with considerable warmth, when during the afternoon session Wednesday, Solicitor Dorsey taunted the defense with making mountains out of molehills in its motion for a new trial.

Save for that bright light, the afternoon session, lasting till 5:30 o'clock, was a dreary and monotonous wrangle between the defense and the state over details, upon which they seemed unable to agree. The solicitor disputed repeatedly the assertions set down in the motion for a new trial, declaring that they were not borne out by the record and that they were unfounded on fact. With a few exceptions, such as the ground charging that Solicitor Dorsey intimated while Herbert Schiff was on the stand that Schiff was evading his questions (which the solicitor admitted readily), the grounds were checked by Judge Roan for his own further consideration. In as much as he must certify the motion entirely on his own responsibility, and his certificate will be final on all statements of fact in it, it is he who must be satisfied that the motion is correct or incorrect in this or that detail.

Resuming their dispute upon ground thirty, the lawyers hammered away upon the motion all afternoon Wednesday. They had completed just thirty more grounds, and were on the forty-third in the motion, when court recessed for the night at 5:30 o'clock. The hearing, being held in an anteroom of the state library, was subject to the closing hours of the library. Judge Roan stated that he would make arrangements for a night session Thursday.



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**PDF PAGE 1, COLUMN 7**

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**FISHER IS INDICTED  
FOR DALTON MURDER  
OF FIVE YEARS BACK**

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Man Who Accused  
Atlanta

Merchant of Phagan  
Murder

Is Himself Charged  
With

Death of Dug Steele

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STEELE KILLED IN  
1908;

INDICTMENT JUST  
MADE

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Murder Warrant Has  
Been Is-

sued Against Fisher,  
and

Sheriff Is on Way to  
Atlanta

to Arrest Him.

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(Special Dispatch to The Journal.)

DALTON, Ga., Oct. 23.—At 11:45 o'clock this morning, the grand jury returned a bill of indictment charging Ira Fisher, the sensational witness who accused a prominent Atlanta man of the murder of Mary Phagan, with the murder of Dug Steele, Steele having been killed here about five years ago.

The body of Steele, badly mangled, was found near the Southern railway tracks in the northern part of the city. Although the body was decapitated, and one shoulder was badly crushed, practically no blood was found in the vicinity, leading to the belief that Steel was killed and later placed on the tracks in an effort to hide the crime.

The coroner's inquest lasted for several days, finally returning a verdict that Steele came to his death from being run over by a train, as no evidence to warrant any other finding was secured. The grand jury afterwards investigated the matter but reached the same conclusion.

The matter was forgotten here until it was revived by the present grand jury. The investigation began on persistent rumors that Steele had been dealt with foully, today took a different aspect. Now evidence of a damaging nature was secured, pointing to Fisher as the slayer of Steele and resulting in an indictment being returned against him.

Following the returning of the indictment, a warrant charging Fisher with murder, was issued. It was turned over to the sheriff, who will leave here for Atlanta to serve the warrant.

Ira Fisher was for years a resident of this city. He was at one time a witness in a criminal case of murder in the superior court here, and was impeached by the testimony of about a score of responsible citizens of Dalton.

# Fisher Is Man Who

# Accused J. C. Shirley

When informed by a Journal reporter that the Whitfield county grand jury had returned a true bill against him, charging the murder of his brother-in-law, Dug Steele, five years ago, Ira W. Fisher, held at police headquarters on the charge of criminal libel preferred by J. C. Shirley, the well known Marietta street furniture dealer, treated the news lightly and denied having any thing to do with the crime. At the time of the murder, Fisher said that he was at the home of Cliff Bearden, sitting up with his sick wife. "The coroner's jury cleared me," he continued, "and there is absolutely no foundation for the action of the grand jury. I am innocent and can prove it."

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**PDF PAGE 5, COLUMN 1**

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**NINETEEN  
INDICTMENTS,  
ONE NO-BILL  
RETURNED**

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# Bill Against Florida Young Man Who Snatched Purse

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Nineteen true bills and one no bill were returned by the Fulton county grand jury Thursday morning at a session lasting but one hour and ten minutes.

Among the indictments returned was one against W. M. Hearld, the young man from Jacksonville, Fla., who several days ago at the corner of Whitehall street and Trinity avenue, snatched the purse of Mrs. E. D. Griffin, of 186 South Forsyth street.

At the time of his arrest, Hearld stated that he had been prompted to snatch the purse by reason of the fact that he was out of work and had just received a letter from his wife, telling him that she and the baby were without money to purchase food.

Owing to the fact that both Solicitor Dorsey and Assistant Solicitor Stephens were engaged at the hearing on the new trial motion of Leo M. Frank, Deputy N. A. Garner, of the solicitor's office, directed the work of the grand jury.

# **MISS CLAXTON IS NAMED**

## **AS PROBATION OFFICER**

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Will Probate Delinquent  
Wom-  
en on Same Basis as  
Men

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In accordance with the recommendation of the police board that a woman probation officer be appointed, Chief of Police James L. Beavers Thursday named Miss Ethel A. Claxton for the position and she will assume her new duties immediately.

Miss Claxton, who now is in charge of Martha's Home, will continue in that capacity and look after both places at the same time. Any women delinquent who wishes to be put on probation, under the same conditions as a man, when she faces a prison sentence, will have the privilege of doing so.

